

AMENDED IN SENATE JANUARY 21, 2014

AMENDED IN SENATE JANUARY 6, 2014

AMENDED IN SENATE APRIL 2, 2013

SENATE BILL

No. 663

Introduced by Senator Lara

February 22, 2013

An act to amend Sections 1048.1~~and~~, 1050, *and 13515.30* of, and to add Section 13519.06 to, the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 663, as amended, Lara. Crimes: persons with developmental and intellectual disabilities.

(1) Existing law requires that, in scheduling a trial date at an arraignment in superior court involving any of specified offenses, including sexual assault, reasonable efforts be made to avoid setting that trial, when that case is assigned to a particular prosecuting attorney, on the same day that another case is set for trial involving the same prosecuting attorney. Existing law also requires that continuances be granted only upon a showing of good cause and defines good cause to include specified cases, including cases of sexual abuse, sexual assault, and domestic violence.

This bill would make those provisions applicable to a case involving a crime against a person with a developmental disability.

(2) Existing law directs the Commission on Peace Officer Standards and Training to establish minimum standards relating to the training of law enforcement officers and establishes standards that are specifically applicable in specific types of cases, including domestic violence and the handling of persons with developmental disabilities or mental illness.

Existing law also requires the commission to establish and keep updated a continuing education training course relating to law enforcement interaction with mentally disabled and developmentally disabled persons living within a state mental hospital or state developmental center.

The bill would require the Commission on Peace Officer Standards and Training, upon the next regularly scheduled review of a training module relating to persons with disabilities, to create and make available on DVD and to distribute electronically a course on the steps that may be taken in developing a training course regarding the investigation of crimes against or involving individuals with developmental disabilities, intellectual disabilities, cognitive impairments, and communication impairments, as specified. *The bill would also require the continuing education training course relating to law enforcement interaction with mentally disabled and developmentally disabled persons living within a state mental hospital or state developmental center to be integrated and coordinated with the training course developed pursuant to the bill.*

The bill would also express the intent of the Legislature in enacting ~~this~~ *the provision developing the new course* to encourage the establishment of crime investigation units in law enforcement agencies throughout the state specializing in investigating crimes against or involving individuals with developmental disabilities, intellectual disabilities, cognitive impairments, and communication impairments, including, but not limited to, investigating crimes involving the sexual exploitation and sexual abuse of developmentally disabled children and adults.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1048.1 of the Penal Code is amended to
- 2 read:
- 3 1048.1. ~~(a)~~—In scheduling a trial date at an arraignment in
- 4 superior court involving any of the following offenses, reasonable
- 5 efforts shall be made to avoid setting that trial, when that case is
- 6 assigned to a particular prosecuting attorney, on the same day that
- 7 another case is set for trial involving the same prosecuting attorney:
- 8 ~~(+)~~
- 9 (a) Murder, as defined in subdivision (a) of Section 187.

1 ~~(2)~~

2 (b) An alleged sexual assault offense, as described in
3 subdivisions (a) and (b) of Section 11165.1.

4 ~~(3)~~

5 (c) Alleged child abuse offense, as described in Section 11165.6.

6 ~~(4)~~

7 (d) A case being handled in the Career Criminal Prosecution
8 Program pursuant to Sections 999b to 999h, inclusive.

9 ~~(5)~~

10 (e) A case involving an allegation of a crime committed against
11 a person with a developmental disability.

12 ~~(b) For purposes of this section, a “developmental disability”~~
13 ~~has the same meaning as found in subdivision (h) of Section 1385~~
14 ~~of the Evidence Code.~~

15 SEC. 2. Section 1050 of the Penal Code is amended to read:

16 1050. (a) The welfare of the people of the State of California
17 requires that all proceedings in criminal cases shall be set for trial
18 and heard and determined at the earliest possible time. To this end,
19 the Legislature finds that the criminal courts are becoming
20 increasingly congested with resulting adverse consequences to the
21 welfare of the people and the defendant. Excessive continuances
22 contribute substantially to this congestion and cause substantial
23 hardship to victims and other witnesses. Continuances also lead
24 to longer periods of presentence confinement for those defendants
25 in custody and the concomitant overcrowding and increased
26 expenses of local jails. It is therefore recognized that the people,
27 the defendant, and the victims and other witnesses have the right
28 to an expeditious disposition, and to that end it shall be the duty
29 of all courts and judicial officers and of all counsel, both for the
30 prosecution and the defense, to expedite these proceedings to the
31 greatest degree that is consistent with the ends of justice. In
32 accordance with this policy, criminal cases shall be given
33 precedence over, and set for trial and heard without regard to the
34 pendency of, any civil matters or proceedings. In further accordance
35 with this policy, death penalty cases in which both the prosecution
36 and the defense have informed the court that they are prepared to
37 proceed to trial shall be given precedence over, and set for trial
38 and heard without regard to the pendency of, other criminal cases
39 and any civil matters or proceedings, unless the court finds in the
40 interest of justice that it is not appropriate.

(b) To continue any hearing in a criminal proceeding, including the trial, (1) a written notice shall be filed and served on all parties to the proceeding at least two court days before the hearing sought to be continued, together with affidavits or declarations detailing specific facts showing that a continuance is necessary and (2) within two court days of learning that he or she has a conflict in the scheduling of any court hearing, including a trial, an attorney shall notify the calendar clerk of each court involved, in writing, indicating which hearing was set first. A party shall not be deemed to have been served within the meaning of this section until that party actually has received a copy of the documents to be served, unless the party, after receiving actual notice of the request for continuance, waives the right to have the documents served in a timely manner. Regardless of the proponent of the motion, the prosecuting attorney shall notify the people's witnesses and the defense attorney shall notify the defense's witnesses of the notice of motion, the date of the hearing, and the witnesses' right to be heard by the court.

(c) Notwithstanding subdivision (b), a party may make a motion for a continuance without complying with the requirements of that subdivision. However, unless the moving party shows good cause for the failure to comply with those requirements, the court may impose sanctions as provided in Section 1050.5.

(d) When a party makes a motion for a continuance without complying with the requirements of subdivision (b), the court shall hold a hearing on whether there is good cause for the failure to comply with those requirements. At the conclusion of the hearing, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts proved that justify its finding. A statement of the finding and a statement of facts proved shall be entered in the minutes. If the moving party is unable to show good cause for the failure to give notice, the motion for continuance shall not be granted.

(e) Continuances shall be granted only upon a showing of good cause. Neither the convenience of the parties nor a stipulation of the parties is in and of itself good cause.

(f) At the conclusion of the motion for continuance, the court shall make a finding whether good cause has been shown and, if it finds that there is good cause, shall state on the record the facts

1 proved that justify its finding. A statement of facts proved shall
2 be entered in the minutes.

3 (g) (1) When deciding whether or not good cause for a
4 continuance has been shown, the court shall consider the general
5 convenience and prior commitments of all witnesses, including
6 peace officers. Both the general convenience and prior
7 commitments of each witness also shall be considered in selecting
8 a continuance date if the motion is granted. The facts as to
9 inconvenience or prior commitments may be offered by the witness
10 or by a party to the case.

11 (2) For purposes of this section, “good cause” includes, but is
12 not limited to, those cases where any of the following has occurred
13 and the prosecuting attorney assigned to the case has another trial,
14 preliminary hearing, or motion to suppress in progress in that court
15 or another court:

16 (A) Murder, as defined in subdivision (a) of Section 187.

17 (B) Allegations that involve stalking, as defined in Section
18 646.9.

19 (C) A violation of one or more of the sections specified in
20 subdivision (a) of Section 11165.1 or Section 11165.6.

21 (D) Domestic violence as defined in Section 13700.

22 (E) A case being handled in the Career Criminal Prosecution
23 Program pursuant to Sections 999b to 999h, inclusive.

24 (F) A hate crime, as defined in Title 11.6 (commencing with
25 Section 422.6) of Part 1.

26 (G) A case involving a crime against a person with a
27 developmental disability.

28 (H) A continuance under this subdivision shall be limited to a
29 maximum of 10 additional court days.

30 (3) Only one continuance per case may be granted to the people
31 under this subdivision for cases involving stalking, hate crimes,
32 or cases handled under the Career Criminal Prosecution Program.
33 Any continuance granted to the people in a case involving stalking
34 or handled under the Career Criminal Prosecution Program shall
35 be for the shortest time possible, not to exceed 10 court days.

36 (h) Upon a showing that the attorney of record at the time of
37 the defendant’s first appearance in the superior court on an
38 indictment or information is a Member of the Legislature of this
39 state and that the Legislature is in session or that a legislative
40 interim committee of which the attorney is a duly appointed

1 member is meeting or is to meet within the next seven days, the
2 defendant shall be entitled to a reasonable continuance not to
3 exceed 30 days.

4 (i) A continuance shall be granted only for that period of time
5 shown to be necessary by the evidence considered at the hearing
6 on the motion. Whenever any continuance is granted, the court
7 shall state on the record the facts proved that justify the length of
8 the continuance, and those facts shall be entered in the minutes.

9 (j) Whenever it shall appear that any court may be required,
10 because of the condition of its calendar, to dismiss an action
11 pursuant to Section 1382, the court must immediately notify the
12 Chair of the Judicial Council.

13 (k) This section shall not apply when the preliminary
14 examination is set on a date less than 10 court days from the date
15 of the defendant's arraignment on the complaint, and the
16 prosecution or the defendant moves to continue the preliminary
17 examination to a date not more than 10 court days from the date
18 of the defendant's arraignment on the complaint.

19 (l) This section is directory only and does not mandate dismissal
20 of an action by its terms.

21 ~~(m) For purposes of this section, a "developmental disability"~~
22 ~~has the same meaning as found in subdivision (h) of Section 1385~~
23 ~~of the Evidence Code.~~

24 SEC. 3. *Section 13515.30 of the Penal Code is amended to*
25 *read:*

26 13515.30. (a) By July 1, 2015, the Commission on Peace
27 Officer Standards and Training shall establish and keep updated
28 a continuing education training course relating to law enforcement
29 interaction with mentally disabled and developmentally disabled
30 persons living within a state mental hospital or state developmental
31 center. The training course shall be developed by the commission
32 in consultation with appropriate community, local, and state
33 organizations and agencies that have expertise in the area of mental
34 illness and developmental disability, and with appropriate consumer
35 and family advocate groups. In developing the course, the
36 commission shall also examine existing courses certified by the
37 commission that relate to mentally disabled and developmentally
38 disabled persons. *The course shall be integrated and coordinated*
39 *with the training course established pursuant to Section 13519.06.*
40 The commission shall make the course available to all law

1 enforcement agencies in California, and the course shall be required
2 for law enforcement personnel serving in law enforcement agencies
3 with jurisdiction over state mental hospitals and state
4 developmental centers, as part of the agency's officer training
5 program.

6 (b) The course described in subdivision (a) may consist of
7 video-based or classroom instruction. The course shall include, at
8 a minimum, core instruction in all of the following:

9 (1) The prevalence, cause, and nature of mental illnesses and
10 developmental disabilities.

11 (2) The unique characteristics, barriers, and challenges of
12 individuals who may be a victim of abuse or exploitation living
13 within a state mental hospital or state developmental center.

14 (3) How to accommodate, interview, and converse with
15 individuals who may require assistive devices in order to express
16 themselves.

17 (4) Capacity and consent of individuals with cognitive and
18 intellectual barriers.

19 (5) Conflict resolution and deescalation techniques for
20 potentially dangerous situations involving mentally disabled or
21 developmentally disabled persons.

22 (6) Appropriate language usage when interacting with mentally
23 disabled or developmentally disabled persons.

24 (7) Community and state resources and advocacy support and
25 services available to serve mentally disabled or developmentally
26 disabled persons, and how these resources can be best utilized by
27 law enforcement to benefit the mentally disabled or
28 developmentally disabled community.

29 (8) The fact that a crime committed in whole or in part because
30 of an actual or perceived disability of the victim is a hate crime
31 punishable under Title 11.6 (commencing with Section 422.55)
32 of Part 1.

33 (9) Information on the state mental hospital system and the state
34 developmental center system.

35 (10) Techniques in conducting forensic investigations within
36 institutional settings where jurisdiction may be shared.

37 (11) Examples of abuse and exploitation perpetrated by
38 caregivers, staff, contractors, or administrators of state mental
39 hospitals and state developmental centers, and how to conduct

1 investigations in instances where a perpetrator may also be a
2 caregiver or provider of therapeutic or other services.

3 ~~SEC. 3.~~

4 *SEC. 4.* Section 13519.06 is added to the Penal Code, to read:

5 13519.06. (a) It is the intent of the Legislature in enacting this
6 section to encourage the establishment of crime investigation units
7 in law enforcement agencies throughout the state specializing in
8 investigating crimes against or involving individuals with
9 developmental disabilities, intellectual disabilities, cognitive
10 impairments, and communication impairments, including, but not
11 limited to, investigating crimes involving the sexual exploitation
12 and sexual abuse of developmentally disabled children and adults.

13 (b) The Commission on Peace Officer Standards and Training,
14 upon the next regularly scheduled review of a training module
15 relating to persons with disabilities, shall create and make available
16 on DVD and may distribute electronically a course on the steps
17 that may be taken in developing a training course regarding the
18 investigation of crimes against or involving individuals with
19 developmental disabilities, intellectual disabilities, cognitive
20 impairments, and communication impairments. The course
21 regarding the development of the training course shall be developed
22 in consultation with appropriate community, local, and state
23 organizations and agencies that have expertise in the area of
24 developmental disabilities and with appropriate consumer and
25 family advocacy groups. *The course shall be integrated and*
26 *coordinated with the training course established pursuant to*
27 *Section 13515.30.* The training shall, at a minimum, include all of
28 the following subjects:

29 (1) Statutes, ordinances, and other state and federal laws relating
30 to crimes involving persons with developmental disabilities,
31 intellectual disabilities, cognitive impairments, and communication
32 impairments.

33 (2) The prevalence, nature, and recognition of developmental
34 disabilities, intellectual disabilities, cognitive impairments, and
35 communication impairments.

36 (3) The incidences of crime involving persons who suffer from
37 developmental disabilities, intellectual disabilities, cognitive
38 impairments, and communication impairments.

39 (4) Reporting requirements and procedures for crimes involving
40 persons who suffer from developmental disabilities, intellectual

1 disabilities, cognitive impairments, and communication
2 impairments.

3 (5) The unique characteristics, barriers, and challenges of
4 individuals with developmental disabilities, intellectual disabilities,
5 cognitive impairments, and communication impairments who may
6 be victims of abuse or exploitation, including issues relating to
7 capacity and consent, and specific examples of abuse and
8 exploitation, including incidents perpetrated by caregivers, facility
9 or program staff, contractors, or facilities and programs serving
10 individuals with developmental disabilities, intellectual disabilities,
11 cognitive impairments, and communication impairments.

12 (6) Techniques to accommodate, interview, and converse with
13 an individual who may require assistive devices in order to
14 communicate for himself or herself.

15 (7) Techniques for conducting investigations in which a criminal
16 defendant may also be a caregiver or provider of therapeutic or
17 other services.

18 (8) Procedures for minimizing the number of times individuals
19 with developmental disabilities, ~~developmental~~
20 ~~disabilities~~, intellectual disabilities, cognitive impairments, and
21 communication impairments are interviewed by law enforcement
22 personnel.

23 (9) Appropriate language and communication when interacting
24 with people with developmental disabilities, intellectual disabilities,
25 cognitive impairments, and communication impairments.

26 (10) Community and state resources and advocacy support and
27 services available to serve people with developmental disabilities,
28 intellectual disabilities, cognitive impairments, and communication
29 impairments and how these resources can best be utilized by law
30 enforcement.

31 *(11) Information regarding private institutions that provide*
32 *care to developmentally disabled persons.*

33 *(12) Information regarding family and social dynamics in*
34 *matters involving persons with developmental disabilities.*